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January 11, 2022

VIA ECF

Hon James M. Wicks, USMJ  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11717

RE: *Martinez et al v. Feliks & Son Storage Tank Corp. et al*, 2:21-cv-03613-GRB-JMW

Dear Judge Wicks:

I write in response to the Court's December 29, 2021 order directing that Plaintiffs show cause why the above reference matter should not be dismissed.

This action to recover unpaid overtime under the FLSA and the NYLL was commenced on June 28, 2021. The corporate defendants (Feliks & Son Storage Tank Corp. and Feliks & Son Services, LLC) were served with the summons and complaint on August 2, 2021 and September 10, 2021, respectively. Neither has answered or otherwise moved with regard to the complaint and today Plaintiffs requested that the Clerk note the default of the corporate defendants.

However we have been unable, despite diligent efforts, to serve Feliks Swierzewski.

I respectfully request that the claims against Feliks Swierzewski be dismissed without prejudice, and that the Plaintiffs be granted leave to file a motion for default judgment against the corporate defendants on or before February 14, 2022.

Respectfully Submitted,

/s  
Steven J. Moser